

ORIGINAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

JAN 20 2005

LUTHER D. THOMAS, Clerk  
Deputy Clerk

EARTHLINK, INC.,

Plaintiff,

v.

CASE NO. 1 03 CV 2559 JOF

ALBERT AHDOOT; ALYXSANDRA SACHS;  
NET GLOBAL MARKETING, INC.; ANDY  
POPE; SCOTT MASLOWE; FRED LUSKY;  
NETBENDERS, LLC; ISN, LLC; DAMON  
DECRESCENZO; DAVID BURSTYN;  
PATHING NETWORKS, INC.; HERBAL  
GROUPS, INC.; PAT GALVIN;  
JOHN DOES 17-50 (THE "ALABAMA  
SPAMMERS"); STEVE GOODWIN; AND  
DEREK GOODWIN,

Defendants.

**NOTICE OF SETTLEMENT OF CLAIMS WITH DEFENDANTS**  
**DAMON DECRESCENZO AND DAVID BURSTYN**  
**AND MOTION FOR ENTRY OF CONSENT ORDER**

Plaintiff EarthLink, Inc. ("EarthLink") files this Notice of Settlement of Claims ("Notice") and Motion for Entry of Consent Order ("Motion") showing this Court that it has reached settlement agreements with Defendants Damon DeCrescenzo ("DeCrescenzo") and David Burstyn ("Burstyn") and requesting that this Court enter the Proposed Consent Order accompanying this Motion. Once this Court has entered the Proposed Orders,

EarthLink will file a Motion to Dismiss and will ask this Court to release DeCrescenzo and Burstyn from this case.

Attached to this Notice and Motion at Exhibit A is a true and correct copy of the Agreement Resolving Claims Against And Regarding Future Conduct Of Defendants DeCrescenzo And Burstyn ("Agreement"). Defendant DeCrescenzo and Defendant Burstyn have consented to the entry of an "Order of Permanent Injunction" against them by this Court. (See section III.A of the Agreement). The proposed Order presented to the Court with this Motion at Exhibit B was included in the Agreement executed by DeCrescenzo and Burstyn, and appeared therein as an exhibit. Both defendants gave their express consent to the language of the Proposed Order and its entry by this Court.

WHEREFORE, EarthLink prays that this Court enter the proposed Order of Permanent Injunction.

Respectfully submitted this 18<sup>th</sup> day of January, 2005. <sup>2004 kow</sup>

**WELLBORN & WALLACE, LLC**



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Paul F. Wellborn, III  
Georgia Bar No. 746720  
Kelly O. Wallace  
Georgia Bar No. 734166  
Jamie P. Woodard  
Georgia Bar No. 775792

**INDEX TO EXHIBITS**

- Exhibit A      Agreement Resolving Claims Against And  
                 Regarding Future Conduct of Defendants  
                 DeCrescenzo and David Burstyn
- Exhibit B      Proposed Order of Permanent Injunction  
                 Against Defendants DeCrescenzo and Burstyn